

1 ALAN H. BARBANEL (Cal Bar No. 108196)
2 abarbanel@btlawla.com
3 ILYA A. KOSTEN (Cal Bar No. 173663)
4 ikosten@btlawla.com
5 PAUL A. IMPELLEZZERI (Cal Bar No. 231012)
6 pimpellezzeri@btlawla.com
7 BARBANEL & TREUER, P.C.
8 1925 Century Park East, Suite 350
9 Los Angeles, California 90067
10 Telephone: (310) 282-8088
11 Facsimile: (310) 282-8779
12 Attorneys for Defendant, UNITED
13 STATES LIABILITY INSURANCE
14 COMPANY

15 UNITED STATES DISTRICT COURT
16 EASTERN DISTRICT OF CALIFORNIA

17 DOLLAR POINT ASSOCIATION,
18 INC.,

19 Plaintiff,

20 vs.

21 UNITED STATES LIABILITY
22 INSURANCE COMPANY,

23 Defendant.

Case No. 2:22-CV-00995 KJN

**~~[PROPOSED]~~ ORDER ON THE
PARTIES' STIPULATION TO
CONVERT DEFENDANT'S
MOTION TO DISMISS
COMPLAINT FOR FAILURE TO
STATE A CLAIM UPON WHICH
RELIEF CAN BE GRANTED [FRCP
12(b)(6)] INTO PARTIES' CROSS-
MOTIONS FOR PARTIAL
SUMMARY JUDGMENT ON THE
DUTY TO DEFEND [FRCP 56]**

[Hon. Kendall J. Newman]
Trial Date: None Set

24 **ORDER**

25 The Court, having examined the parties' stipulation regarding conversion of
26 defendant's motion to dismiss complaint for failure to state a claim upon which
27 relief can be granted [FRCP 12(b)(6)] into parties' cross-motions for partial
28 summary judgment on the duty to defend [FRCP 56], and good cause appearing
therefor, hereby approves the stipulation and orders as follows:

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Barbanel & Treuer, P.C.
Attorneys at Law
1925 Century Park East, Suite 350
Los Angeles, California 90067
Tel (310) 282-8088 • Fax (310) 282-8779

1 1. USLI's motion to dismiss the complaint by Dollar Point [Doc. 14] and
2 Dollar Point's opposition to USLI's motion to dismiss [Doc. 16] are hereby
3 converted into the Parties' cross-motions for partial summary judgment on the duty
4 to defend under FRCP 12(d);

5 2. USLI's motion to dismiss the complaint [Doc. 14], including all the
6 exhibits and evidence submitted therewith, shall be treated and referred to as USLI's
7 motion for partial summary judgment on the duty to defend;

8 3. Dollar Point's opposition to USLI's motion to dismiss the complaint
9 [Doc. 16] shall be treated and referred to as Dollar Point's cross-motion for partial
10 summary judgment on the duty to defend;

11 4. On or before September 16, 2022, USLI shall file its opposition to
12 Dollar Point's newly-titled motion for partial summary judgment;

13 5. Dollar Point shall have the right to file a reply brief in support of its
14 newly-titled motion for summary judgment no later than September 30, 2022.

15 6. No Party shall proffer any additional evidence in connection with the
16 cross-motions for partial summary judgment.


17 7. No Party shall object to any evidence already before the Court as of the
18 date of this Stipulation.

19 8. No Party shall file a separate statement of undisputed material facts.
20

21 After the close of the briefing, the motions will be taken under submission. If
22 the court determines that oral argument is needed, a hearing will be scheduled.

23 **IT IS SO ORDERED.**

24 Dated: September 1, 2022
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26 
27 KENDALL J. NEWMAN
28 UNITED STATES MAGISTRATE JUDGE